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REMARKS**I. Introduction**

Claims 1-31 are pending in the above application.

Claims 1-31 stand rejected under 35 U.S.C. § 103.

Claims 1, 5, 12, 15 and 18 are independent claims.

II. Rejections Under Prior Art

A. Claims 1-21, 23, 24, 2-30 and 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over Williams (U.S. Pat. 5,745,836) in view of Cooper et al. (U.S. Pat. 6,772,437).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *Ecolochem Inc. v. Southern California Edison Co.*, 227 F.3d 1361, 56 U.S.P.Q.2d (BNA) 1065 (Fed. Cir. 2000); *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d (BNA) 1614, 1617 (Fed. Cir. 1999); *In re Jones*, 958 F.2d 347, 21 U.S.P.Q.2d 1941 (Fed. Cir. 1992); and *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). See also MPEP 2143.01.

I. Independent Claim 1

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Neither Williams nor Cooper, taken alone or in combination, disclose or suggest a system for monitoring, isolating and reporting ingress noise traveling upstream in an HFC network which includes a BTP remotely located at or downstream from the node at or downstream from an RF amplifier in the HFC network, as recited by claim 1.

Williams discloses to monitor a network for attackers (e.g. "pirates whose purpose may include gaining free access to network 100") by detecting the amount of energy on a network and monitoring the status of prybar receiver 230. Williams; col. 10: 1 through col. 11: 32. Particularly, prybar receiver 230 is provided with codes from microprocessor 240 and the headend to close switch 225 and selectively allow an upstream transmission. Williams; col. 10: 9 through col. 11: 7. Williams particularly identifies various testing procedures that may be performed by enabling the prybar receiver 230 to control the operation of switch 225 while return transmitter 250 transmits diagnostic signals through switch 225 back to the headend where the diagnostics are apparently performed by the headend. Williams; Fig. 2; col. 10: 61 through col. 11: 14. Williams does not describe an ability to test for noise in the network. Indeed, the solution offered by Williams, to disable the prybar receiver, hardly seems to be a viable or convenient solution when attempting to detect noise entering into the network.

Any reliance on Williams for detecting noise is mere speculation. The examiner is respectfully reminded that a rejection can only be based on factual evidence, not speculation. Moreover, the Examiner is reminded that it is improper to distill the invention, or a limitation of a claim, down to a "gist or thrust" of an invention. See MPEP 2141.02. Accordingly, the Examiner must consider and give effect to every limitation of the claims in order to consider the invention as a whole. It appears that the

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Office action ignores the limitation of detecting ingress noise. The Examiner is not at liberty to choose which features the Examiner deems important enough in a claim in order to overcome the prior art, i.e. in order to establish a prima facie case of anticipation each and every claimed element must be met. See Connell v. Sears, Roebuck & Co., 220 USPQ 193, 198 (Fed. Cir. 1983)

Cooper also does not disclose system for monitoring, isolating and reporting ingress noise traveling upstream in an HFC network which includes a BTP remotely located at or downstream from the node at or downstream from an RF amplifier in the HFC network, as recited by claim 1. Cooper merely discloses a cable modem which capable of performing power measurements. Abs. The cable modem of Cooper is clearly located at the subscriber.

Accordingly, as neither Williams nor Cooper, taken alone or in combination, disclose all of the claimed limitations of claim 1, the combination of Williams and Cooper does not render claim 1, nor claims 2-4, 21 and 23-24, which depend on claim 1 and incorporate all of the limitations thereof, unpatentable.¹

2. Independent Claim 5

Regarding claims 5-11, neither Williams nor Cooper, taken alone or in combination disclose or suggest an HFC network which includes a BTP including an ingress noise monitoring and isolating interface connected to a downstream-facing directional coupler of a tap, as recited by claim 5. Williams clearly does not disclose

¹ Applicants note that although claim 24 is indicated to be rendered obvious over the combination of Williams and Cooper, claim 24 depends on claim 22, and incorporates all of the limitations thereof. However, the Office action acknowledges that the combination of Williams and Cooper does not meet all of the limitations of claim 22 and relies on Bushue to make up for the deficiencies of Williams and Cooper. Hence, the combination of Williams and Cooper clearly does not meet all of the limitations of claim 24.

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such, and merely discloses a node 140 upstream of tap 170. Fig. 2. Williams does not discuss a coupler of a tap and any relation of a BTP thereto. The Office action both ignores the structural limitations of claim 5 and contorts the disclosure of Williams by selectively mixing components of the embodiment of Figure 2 with the embodiment of Figure 3 – e.g. relying on Figure 3 for directional couplers but relying on Figure 2 for a BTP. However, Williams clearly discloses Figure 3 as an alternative embodiment, not something to be combined with the embodiment of Figure 2 as done in the Office action. Col. 7: 25-30; col. 11: 40-60.

Cooper is concerned with a modem, not a tap, and also does not discuss a couple of a tap and any relation of a BTP thereto. Fig. 1. The examiner is respectfully reminded that limitations of the claims cannot be simply ignored for the convenience of then rejecting those claims.

Accordingly, as neither Williams nor Cooper, taken alone or in combination, disclose all of the claimed limitations of claim 5, the combination of Williams and Cooper does not render claim 5, nor claims 6-11 and 27, which depend on claim 5 and incorporate all of the limitations thereof, unpatentable.²

3. Independent Claim 12

Regarding claim 12, the Office action completely fails to establish a prima facie case of obviousness. In short, the Office action simply ignores the structural arrangements recited in claim 12 apparently for convenience of rejecting claim 12. The

² Applicants note that although claim 26 is indicated to be rendered obvious over the combination of Williams and Cooper, claim 26 depends on claim 25, and incorporates all of the limitations thereof. However, the Office action acknowledges that the combination of Williams and Cooper does not meet all of the limitations of claim 25 and relies on Wagner to make up for the deficiencies of Williams and Cooper. Hence, the combination of Williams and Cooper clearly does not meet all of the limitations of claim 26.

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Examiner is respectfully reminded that it is improper to distill the invention, or a limitation of a claim, down to a "gist or thrust" of an invention. See MPEP 2141.02. Accordingly, the Examiner must consider and give effect to every limitation of the claims in order to consider the invention as a whole.

Moreover, neither Williams nor Cooper, taken alone or in combination disclose or suggest a system for monitoring ingress noise in an HFC network which includes a BTP with a downstream-facing directional coupler, an upstream-facing coupler, and an ingress noise monitoring and isolating interface connected to the downstream facing coupler.

Accordingly, as neither Williams nor Cooper, taken alone or in combination, disclose all of the claimed limitations of claim 12, the combination of Williams and Cooper does not render claim 12, nor claims 13 and 14, which depend on claim 12 and incorporate all of the limitations thereof, unpatentable.

4. Independent Claims 15 And 18

Regarding claims 15 and 18, as discussed above, neither Williams nor Cooper discloses an HFC network with includes a BTP connected to particular couplers as recited in claims 15 and 18. Particularly, assuming, arguendo, that Williams discloses a BTP in Figure 2, the couplings in Figure 3 are contained within another embodiment of such alleged BTP. Accordingly, as neither Williams nor Cooper, taken alone or in combination, disclose all of the claimed limitations of claims 15 or 18, the combination of Williams and Cooper does not render claims 15 nor 18, nor claims 16, 17, 28, 29 and 30, which depend on claim 12 and incorporate all of the limitations thereof, nor claims

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19, 20 and 32 which depend on claim 12 and incorporate all of the limitations thereof, unpatentable.³

B. Claims 22 and 25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Williams in view of Cooper and further in view of Bushue et al. (5,845,190).

Neither Williams, Cooper nor Bushue, taken alone or in combination, disclose or suggest all of the limitations of claims 22 and 25, which depend on claims 1 and 5, respectively, and incorporate all of the limitations thereof. Neither Williams nor Cooper, taken alone or in combination disclose the limitations of claims 1 and 5 as discussed above. Bushue does not cure the deficiencies of the combination of Williams and Cooper, and the Office action merely relies on Bushue for disclosing a tap with a diplexer. Accordingly, neither Williams, Cooper nor Bushue, taken alone or in combination, disclose or suggest all of the limitations of claims 22 and 25, which depend on claims 1 and 5.

C. Claim 31 stands rejected under 35 U.S.C. § 103 as being unpatentable over Williams in view of Cooper and further in view of Wagner (U.S. Pat. 4,812,779).

Neither Williams, Cooper nor Wagner, taken alone or in combination, disclose or suggest all of the limitations of claim 31, which depends on claim 18, and incorporates all of the limitations thereof. Neither Williams nor Cooper, taken alone or in combination

³ Applicants note that although claim 32 is indicated to be rendered obvious over the combination of Williams and Cooper, claim 32 depends on claim 31, and incorporates all of the limitations thereof. However, the Office action acknowledges that the combination of Williams and Cooper does not meet all of the limitations of claim 31 and rely on Wagner to make up for the deficiencies of Williams and Cooper. Hence, the combination of Williams and Cooper clearly does not meet all of the limitations of claim 32.

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disclose the limitations of claim 18 as discussed above. Wagner does not cure the deficiencies of the combination of Williams and Cooper, and the Office action merely relies on Wagner for disclosing an amplifier with a diplexer. Accordingly, neither Williams, Cooper nor Wagner, taken alone or in combination, disclose or suggest all of the limitations of claim 31, which depends on claim 18.

III. Conclusion

Having fully responded to the Office action, the application is believed to be in condition for allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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